

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EMILY M. BURNS, IN HER OWN RIGHT	:	
AND AS ADMINISTRATRIX OF THE	:	
ESTATE OF MATTHEW T. BURNS,	:	
DECEASED,	:	
4835 Camp K Farm Lane	:	No.
Spruce Creek, PA 16683	:	
	:	
Plaintiff,	:	JURY TRIAL DEMANDED
	:	
vs.	:	
	:	
SHAMA EXPRESS, L.L.C.	:	
1014 Commerce Drive	:	
Grafton, OH 44044	:	
	:	
and	:	
	:	
	:	
BSE TRAILER LEASING, L.L.C.	:	
10228 Governor Lane Boulevard	:	
Williamsport, MD 21795	:	
	:	
and	:	
	:	
MOHAMMED AKBARI	:	
5934 Stumph Road, Apt. 408	:	
Parma, OH 44130	:	
	:	
and	:	
	:	
DILAWAR ALI SHAH	:	
1301 Warren Road	:	
3 rd Floor	:	
Lakewood, OH 44107	:	
	:	
and	:	
	:	
FROST BROOK TRUCKING, INC.	:	
13880 Treeline Avenue	:	
Fort Myers, FL 33913	:	
	:	
and	:	

ROBERT LEE, JR.
1380 Sweetwater CV Unit 104
Naples, FL 34110

and

MARK W. EDDY
7 Surf Avenue
Lewes, DE 19958-2115

and

ABC COMPANIES
(fictitious designation of partnerships,
proprietorships, and/or corporations who
owned, employed, and/or controlled the
vehicles, trailers and/or drivers at issue)

and

JOHN DOES
(fictitious designation of individual(s) who
owned, employed, and/or controlled the
vehicles, trailers and/or drivers at issue)

and

XYZ COMPANIES
(fictitious designation of partnerships,
proprietorships, and/or corporations who
inspected, maintained, serviced and/or
repaired the vehicles and/or trailers at issue)

and

JOHN ROES
(fictitious designation of individual(s) who
inspected, maintained, serviced and/or
repaired the vehicles and/or trailers at issue)

Defendants.

NOTICE OF REMOVAL

AND NOW come the Defendants, Shama Express, LLC, Mohammed Akbari, and Dilawar Ali Shah, by and through undersigned counsel, to file the present Notice of Removal and remove the above-captioned action pursuant to 28 U.S.C. § 1441, from the Court of Common Pleas of Philadelphia County, Pennsylvania (October Term, 2021 - No. 211002177) to the United States District Court for the Eastern District of Pennsylvania, and in support thereof, aver as follows:

1. On October 27, 2021, Plaintiff, Emily M. Burns, in her own right and as Administratrix of the Estate of Matthew T. Burns, Deceased, filed her Complaint in the Court of Common Pleas of Philadelphia County, Pennsylvania, at October Term, 2021 - No. 211002177.

2. The Complaint names as Defendants, Shama Express, LLC, BSE Trailer Leasing, LLC, Mohammed Akbari, Dilawar Ali Shah, Frost Brook Trucking, Inc., Robert Lee, Jr., Mark W. Eddy, ABC Companies, John Does, XYZ Companies, and John Roes, and purports to assert claims against the sounding in negligence relative to an automobile accident that occurred on or about December 20, 2020 in Clearfield County, Pennsylvania, Ex. A, *Complaint* at ¶ 37 and *passim*.

3. As a result of the accident, Plaintiff, Emily M. Burns, in her own right and as Administratrix of the Estate of Matthew T. Burns, Deceased, seeks an award of damages relative to injuries Plaintiff and Plaintiff's decedent allegedly sustained in the accident. *Id.*

4. As a result of the accident, Plaintiff alleges that Plaintiff and Plaintiff's decedent suffered the following injuries and damages as a result of the alleged accident: impact injuries to the neck, chest and abdomen; conscious pain and suffering; death; lost wages; lost earning capacity; medical expenses and other necessary life care costs; embarrassment, disfigurement and humiliation; loss of life's pleasures; injuries and conditions set forth in Matthew Burns' medical

records; funeral expenses; mental anguish; loss of consortium; loss of services, society, comfort, and companionship; loss of care, guidance and tutelage; all damages allowable under the Pennsylvania Survival Act 42 Pa.C.S.A. § 8302; and all damages allowed under the Pennsylvania Wrongful Death Act 42 Pa.C.S.A. § 8301. *Id.* at ¶ 53.

5. Plaintiff is an adult individual, who currently resides in Huntingdon County at 4835 Camp K Farm Lane, Spruce Creek, Pennsylvania. *Id.* at ¶ 1.

6. Plaintiff was granted Letters of Administration of the Estate of Matthew T. Burns by the Register for the Probate of Wills of Huntingdon County, Pennsylvania. *Id.* at ¶ 3, and Exhibit A attached thereto.

7. Plaintiff is a Pennsylvania citizen, and Plaintiff's decedent was Pennsylvania citizen before his death.

8. Defendant Shama Express, LLC, is a limited liability company organized under the laws of the State of Ohio, with its principal place of business located in Ohio. *Id.* at ¶ 4.

9. All members of Shama Express, LLC, are citizens of Ohio.

10. Defendant BSE Trailer Leasing, LLC, is a limited liability company organized under the laws of the State of Maryland, with its principal place of business located in Maryland. *Id.* at ¶ 8.

11. The sole member of BSE Trailer Leasing, LLC, is a citizen of Maryland.

12. Defendant Mohammed Akbari is an adult individual and citizen of the State of Ohio. *Id.* at ¶ 12.

13. Defendant Dilawar Ali Shah is an adult individual and citizen of the State of Ohio. *Id.* at ¶ 15.

14. Defendant Frost Brook Trucking, Inc., is a corporation incorporated under the laws of the State of Florida, with its principal place of business located in Florida. *Id.* at ¶ 18.

15. Defendant Robert Lee, Jr., is an adult individual and citizens of the State of Florida. *Id.* at ¶ 22.

16. Defendant Mark W. Eddy is an adult individual and citizen of State of Delaware. *Id.* at ¶ 26.

17. Defendants ABC Companies, are fictitious names of corporations or other business entities, the true names of which are unknown to Plaintiff. *Id.* at ¶ 29.

18. Defendants John Does are fictitious names of individuals, the true names of which are unknown to Plaintiff. *Id.* at ¶ 30.

19. Defendants XYZ Companies, are fictitious names of corporations or other business entities, the true names of which are unknown to Plaintiff. *Id.* at ¶ 31.

20. Defendants John Roes are fictitious names of individuals, the true names of which are unknown to Plaintiff. *Id.* at ¶ 32.

21. In her capacity as Administratrix, Plaintiff takes decedent's citizenship. *See* 28 U.S.C. § 1332(c)(2).

22. Corporations are citizens of their states of incorporation and principal place of business. *See* 28 U.S.C. § 1332(c)(1).

23. Limited liability companies take the citizenship of their members.

24. The citizenship of the fictitious defendants is disregarded for purposes of diversity. *See* 28 U.S.C. § 1441(b)(1).

25. Because Plaintiff is a Pennsylvania citizen and no defendant is a Pennsylvania citizen, complete diversity exists.

26. In her Complaint, Plaintiff requests unliquidated damages in excess of the local prevailing arbitration limit[], which is \$50,000.00. *See* Phila.Civ.R. *1301.

27. Pennsylvania law prohibits Plaintiff from demanding a sum certain in her Complaint. *See* 28 U.S.C. § 1446(c)(2)(A)(ii); Pa.R.Civ.P. 1021(b).

28. In her Complaint, Plaintiff seeks compensatory damages, and she charges some defendants with recklessness, which is the standard to impose punitive damages.

29. Because this Complaint involves claims for wrongful-death and survival, it is more likely than not that the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00. *See* 28 U.S.C. § 1446(c)(2).

30. The above-captioned action, pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, is within the subject matter jurisdiction of the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. § 1332.

31. The United States District Court for the Eastern District of Pennsylvania has original jurisdiction over this action pursuant to 28 U.S.C. § 1441.

32. Concurrent with the filing of this Notice of Removal, Defendant has filed a Notice of Filing of Notice of Removal with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania, advising that it has removed this action to the United States District Court for the Eastern District of Pennsylvania.

33. All Co-Defendants, who are not unidentified fictitiously named entities or factiously named individuals, and who have been properly joined and served, consent to the present removal of this case to this Court.

34. This Notice of Removal is timely, because it is made less than 30 days after service on the defendants.

35. In filing this Notice of Removal, Defendants do not waive any affirmative defenses they may assert in this action.

WHEREFORE, Shama Express, LLC, Mohammed Akbari, and Dilawar Ali Shah respectfully request that this Honorable Court remove this action from the Court of Common Pleas of Clarion County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

PION, NERONE, GIRMAN, WINSLOW
& SMITH, P.C.

By: /s/ Michael F. Nerone

Michael F. Nerone, Esquire

Pa. I.D. No. 62446

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Counsel for Defendants Shama Express,
LLC, Mohammed Akbari, and Dilawar Ali
Shah

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon counsel of record, **via the methods described below**, this 19th day of November, 2021, as follows:

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By: /s/ Michael F. Nerone
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